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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/688,328	10/13/2000	Shahzad Ebrahimian	12568US04	1219

7590 03/31/2003  
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EXAMINER

SZEKELY, PETER A

ART UNIT PAPER NUMBER

1714

DATE MAILED: 03/31/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application N .		Applicant(s)	
	09/688,328		EBRAHIMIAN ET AL.	
	Examiner		Art Unit	
	Peter Szekely		1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 February 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-24 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no mention in the specification of a composition having a limited oxygen index in the range of 45% to 65%. Only a range of 45.5% to 62% is shown. Even "in the range of 45.4% to 62.1%" would be new matter.

3. Claims 1-24 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for an oxygen index range of 45.5% to 62%, does not reasonably provide enablement for a range of 45% to 65%. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims. See Table I.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1-9, 11, 14-20, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sibia 5,310,775, in view of Beall et al. 5,578,672, further in view of Kawasumi et al. 4,810,734, Vaia et al. 5,955,535 or Ellsworth 5,962,553.

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6. Claims 10, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sibia 5,310,775, in view of Beall et al. 5,578,672, further in view of Kawasumi et al. 4,810,734, Vaia et al. 5,955,535 or Ellsworth 5,962,553, and even further in view of Kutnyak et al. 4,356,284 or Thulliez et al. 6,054,538.

7. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sibia et al. 5,310,775, in view of Beall et al. 5,578,672, further in view of Kawasumi et al. 4,810,734, Vaia et al. 5,955,535 or Ellsworth 5,962,553, and even further in view of Day et al. 6,217,197 or Day et al. 6,355,277.

***Response to Arguments***

8. Applicant's arguments filed 2/25/03 have been fully considered but they are not persuasive. Applicants' amendments contain new matter and they are not enabled by the specification. Awaiting the removal of the new matter and the not enabled parts of the claims, all rejections made in Paper #8 are maintained in their entirety.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (703) 308-2460. The examiner can normally be reached on 7:00 a.m-5:30 p.m. Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

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A handwritten signature in dark ink, appearing to read 'Peter Szekely', with a horizontal line extending to the right.

Peter Szekely  
Primary Examiner  
Art Unit 1714

P.S.  
March 27, 2003